S.B.CIVIL WRIT PETITION NO.5158/2006

Ratan Lal
V.
Board of Revenue Ajmer & Ors.

Date of Order :: 6th August, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. M.S.Rathore for Mr.S.P.Sharma, for the petitioner.
Mr. B.L.Tiwari, Deputy Government Advocate.

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This petition for writ is directed to challenge validity, propriety and correctness of the judgment dated 24.7.2006 passed by the Board of Revenue Rajasthan, Ajmer in Revision/LR/6(609)/03/Rajsamand.

In brief, the facts of the case are that the Tehsildar, Amet while exercising powers under Section 91 of the Land Revenue Act, 1955 (hereinafter referred to as “the Act of 1955”) by holding the petitioner a trespasser ordered for his dispossession from the land said to be encroached by him and also made an order for imposing fine with civil imprisonment for a term of three months. Being aggrieved by the same an appeal was preferred by the petitioner that came to be rejected on 5.2.2002 by the Collector, Rajsamand. A second appeal also came to be rejected by the Revenue Appellate Authority, Udaipur on 20.1.2003. By way of filing a revision petition the petitioner challenged

validity of the orders aforesaid before the Board of Revenue Rajasthan, Ajmer and that too came to be rejected on 24.7.2006, thus, this petition for writ is preferred.

An order was passed by this Court on 19.9.2006 in following terms:-

> "Learned counsel for the petitioner submits that his client would file an undertaking that he will hand over peaceful vacant possession to the Tehsildar. He would not encroach on land unless the declaration is made by the Competent Court in his favour and he would be prepared to put bills of any expenses which may be given by the State in that regard. On filing such an undertaking and handing over peaceful and vacant possession, the petitioner will not be sent to civil Jail until further orders."

A statement at Bar is made by counsel for the petitioner today that peaceful and vacant possession of the land in question is delivered to the respondents. Thus, the only contention now advanced is with regard to modification in the order relating to civil imprisonment for a period of three months.

After considering all the circumstances and also the fact that the petitioner has already handed over possession of the land in question to the respondents, I consider it appropriate to modify the

order passed by the Tehsildar, Amet imposing the sentence of three months civil imprisonment by substituting the same with fine of Rs.3000/-.

This petition for writ is accordingly disposed of. The order passed by the Tehsildar, Amet on 10.09.2001 is modified by substituting an additional fine of Rs.3000/- in place of three months civil imprisonment.

(GOVIND MATHUR),J.

Kkm/ps.